

HOUSE BILL NO. 249

INTRODUCED BY LINDEEN, GILLAN, BERGREN, BRANAE, BRUEGGEMAN, CALLAHAN, CAMPBELL,
 CLARK, COONEY, DOWELL, FACEY, FRANKLIN, GALVIN-HALCRO, GOLIE, GRINDE, HAMILTON,
 HARRIS, JACOBSON, JAYNE, LASLOVICH, MATTHEWS, MENDENHALL, NOENNIG, PARKER, RYAN,
 SINRUD, TESTER, TROPILA, WANZENRIED, WILSON, WITT, HAWKS, WEINBERG, JOPEK, A. OLSON,
 WINDHAM, GROESBECK, COCCHIARELLA, BECKER, MCGILLVRAY, HARRINGTON, LARSON,
 NOONAN, GALLUS, ROBERTS, SESSO, SMALL-EASTMAN, GEBHARDT, LENHART, ELLINGSON,
 BIXBY, GALLIK, HANSEN, JENT, MANGAN, MOSS, ROUSH, SCHMIDT, SMITH, SQUIRES, VILLA,
 WHEAT, WILLIAMS, WINDY BOY, DRISCOLL, EATON

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BIG SKY ECONOMIC DEVELOPMENT FUND
 WITHIN THE COAL SEVERANCE TAX TRUST FUND; ALLOCATING AND TRANSFERRING COAL
 SEVERANCE TAX FUNDS TO THE BIG SKY ECONOMIC DEVELOPMENT FUND; ESTABLISHING A BIG SKY
 ECONOMIC DEVELOPMENT PROGRAM WITHIN THE DEPARTMENT OF COMMERCE; PROVIDING FOR
 THE USE OF THE INTEREST AND INCOME FROM THE BIG SKY ECONOMIC DEVELOPMENT FUND TO
 PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS FOR QUALIFIED ECONOMIC
 DEVELOPMENT PROJECTS AND TO PROVIDE FINANCIAL ASSISTANCE TO CERTIFIED REGIONAL
 DEVELOPMENT CORPORATIONS AND CERTAIN OTHER ECONOMIC DEVELOPMENT ORGANIZATIONS;
 ESTABLISHING THE PURPOSE OF THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; ENUMERATING
 THE TYPES OF FINANCIAL ASSISTANCE AVAILABLE THROUGH THE BIG SKY ECONOMIC
 DEVELOPMENT FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703
 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX,
 section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
 severance tax must be deposited;



- 1 (b) a treasure state endowment fund;
2 (c) a treasure state endowment regional water system fund;
3 (d) a coal severance tax permanent fund;
4 (e) a coal severance tax income fund; ~~and~~
5 (f) a coal severance tax school bond contingency loan fund; and
6 (g) a big sky economic development fund.

7 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all
8 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12
9 months and retain that amount in the coal severance tax bond fund.

10 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
11 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

12 (3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the
13 state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax
14 bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax
15 bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

16 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the
17 balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal
18 of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12
19 months.

20 (4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment
21 fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in
22 subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection
23 (3).

24 (b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment
25 regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that
26 is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant
27 to subsection (3).

28 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure
29 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
30 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.

1 Earnings not transferred to the treasure state endowment special revenue account must be retained in the
2 treasure state endowment fund.

3 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water system
4 fund to the treasure state endowment regional water system special revenue account the amount of earnings,
5 excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the
6 account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state
7 endowment regional water system special revenue account must be retained in the treasure state endowment
8 regional water system fund.

9 (5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big
10 sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount
11 that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred
12 pursuant to subsection (3).

13 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
14 economic development special revenue account, provided for in [section 6], the amount of earnings, excluding
15 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
16 accordance with [section 5]. Earnings not transferred to the economic development special revenue account
17 must be retained in the big sky economic development fund.

18 ~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified in
19 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
20 deposited in the coal severance tax permanent fund. (Terminates June 30, 2016--sec. 1, Ch. 70, L. 2001.)

21 **17-5-703. (Effective July 1, 2016) Coal severance tax trust funds.** (1) The trust established under
22 Article IX, section 5, of the Montana constitution is composed of the following funds:

23 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
24 severance tax must be deposited;

25 (b) a treasure state endowment fund;

26 (c) a coal severance tax permanent fund;

27 (d) a coal severance tax income fund; ~~and~~

28 (e) a coal severance tax school bond contingency loan fund; and

29 (f) a big sky economic development fund.

30 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all

1 principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12
2 months and retain that amount in the coal severance tax bond fund.

3 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
4 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

5 (3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the
6 state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax
7 bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax
8 bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

9 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the
10 balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal
11 of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12
12 months.

13 (4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment
14 fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in
15 subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection
16 (3).

17 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure
18 state endowment special revenue account the amount of earnings, excluding unrealized gains and losses,
19 required to meet the obligations of the state that are payable from the account in accordance with 90-6-710.
20 Earnings not transferred to the treasure state endowment special revenue account must be retained in the
21 treasure state endowment fund.

22 (5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big
23 sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount
24 that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred
25 pursuant to subsection (3).

26 (b) The state treasurer shall monthly transfer from the big sky economic development fund to the
27 economic development special revenue account, provided for in [section 6], the amount of earnings, excluding
28 unrealized gains and losses, required to meet the obligations of the state that are payable from the account in
29 accordance with [section 5]. Earnings not transferred to the economic development special revenue account
30 must be retained in the big sky economic development fund.

1 ~~(5)(6)~~ Any amount in the coal severance tax bond fund in excess of the amount that is specified in
 2 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
 3 deposited in the coal severance tax permanent fund."

4
 5 **NEW SECTION. Section 2. Big sky economic development program -- definitions.** (1) (a) There
 6 is a big sky economic development program that consists of:

- 7 (i) the big sky economic development fund established in 17-5-703; and
- 8 (ii) the economic development special revenue account provided for in [section 6].
- 9 (b) Interest and income from the big sky economic development fund may be used to administer the
 10 big sky economic development program and to provide financial assistance for qualified economic development
 11 purposes under [sections 2 through 6].

12 (2) As used in [sections 2 through 6], the following definitions apply:

- 13 (a) "Certified regional development corporation" has the meaning provided in 90-1-116.
- 14 (b) "Department" means the department of commerce provided for in 2-15-1801.
- 15 (c) "Economic development organization" means:
 - 16 (i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
 17 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);
 - 18 (B) an entity certified by the department under 90-1-116; or
 - 19 (C) an entity established by a local government; or
 - 20 (ii) an entity actively engaged in economic development and business assistance work in a region of the
 21 state.
- 22 (d) "Local government" means a TRIBAL GOVERNMENT, county, consolidated government, city, town, or
 23 district or local public entity with the authority to spend or receive public funds.

24
 25 **NEW SECTION. Section 3. Purpose.** The legislature finds and declares that economic development
 26 is a public purpose. The purpose of the big sky economic development program is to assist in economic
 27 development for Montana that will:

- 28 (1) create good-paying jobs for Montana residents;
- 29 (2) promote long-term, stable economic growth in Montana;
- 30 (3) encourage local economic development organizations;

1 (4) create partnerships between the state, local governments, and local economic development
2 organizations that are interested in pursuing these same economic development goals;

3 (5) retain or expand existing businesses; and

4 (6) provide a better life for future generations through greater economic growth and prosperity in
5 Montana.

6

7 **NEW SECTION. Section 4. Types of financial assistance available.** (1) The department shall
8 provide for and make grants and loans available to local governments for economic development projects and
9 to certified regional development corporations from the money in the economic development special revenue
10 account provided for in [section 6].

11 (2) A GRANT OR LOAN MAY NOT BE USED FOR A PROJECT THAT WOULD RESULT IN THE TRANSFER OR RELOCATION
12 OF JOBS FROM ONE PART OF THE STATE TO ANOTHER PART OF THE STATE.

13

14 **NEW SECTION. Section 5. Priorities for funding -- rulemaking.** (1) The department must receive
15 proposals for grants and loans from local governments. A local government shall work with an economic
16 development organization on a proposal. The department shall work with the local government and the
17 economic development organization in preparing cost estimates for a proposed project. In reviewing proposals,
18 the department may consult with other state agencies with expertise pertinent to the proposal.

19 (2) (a) The department shall adopt rules necessary to implement the big sky economic development
20 program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment
21 program and other similar state programs. To the extent feasible, the department shall make the rules
22 compatible with those other programs. TO THE EXTENT FEASIBLE, THE DEPARTMENT SHALL EMPLOY AN APPROACH
23 PERTAINING TO THE USE OF FUNDS SO THAT THE NEEDS OF RURAL AREAS ARE BALANCED WITH THE NEEDS OF THE STATE'S
24 URBAN CENTERS.

25 (b) The rules must provide for the types of uses of funds available under the big sky economic
26 development program. The types of uses of funds by:

27 (i) local governments include but are not limited to:

28 (A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;

29 (B) a grant or low-interest loan for relocation expenses for a basic sector company; and

30 (C) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector

1 company.

2 (ii) a certified regional development corporation includes:

3 (A) support for business improvement districts and central business district redevelopment;

4 (B) industrial development;

5 (C) feasibility studies;

6 (D) creation and maintenance of baseline community profiles; and

7 (E) matching funds for federal funds, including but not limited to brownfields funds and natural resource
8 damage funds.

9 (c) The rules must provide for distribution methods for financial assistance available to local
10 governments. The rules must provide for distribution based upon the number of jobs expected to be created
11 because of the funding. Funding may not exceed \$5,000 for each expected job, ~~and a project must create at~~
12 ~~least five jobs.~~ The rules must require equal matching funds for a grant or loan.

13 (D) THE RULES MUST PROVIDE FOR THE FULL OR PARTIAL REPAYMENT OF A GRANT IF THE NEW JOBS OR SOME
14 OF THE NEW JOBS FOR WHICH A GRANT IS GIVEN ARE NOT CREATED.

15 ~~(d)~~(E) A grant or loan may be made only for a new job that has an average weekly wage that meets or
16 exceeds the lesser of:

17 ~~_____ (i) Montana's current average weekly wage;~~

18 ~~_____ (ii) the current average weekly wage of the county in which the employees are to be principally~~
19 ~~employed; or~~

20 ~~_____ (iii) for jobs that will be principally located on a reservation, the current average weekly wage on that~~
21 ~~reservation~~ CURRENT AVERAGE WEEKLY WAGE OF THE COUNTY IN WHICH THE EMPLOYEES ARE TO BE PRINCIPALLY
22 EMPLOYED.

23
24 NEW SECTION. Section 6. Economic development special revenue account. (1) There is an
25 economic development state special revenue account. The account receives earnings from the big sky economic
26 development fund as provided in 17-5-703. The money in the account may be used only as provided in [sections
27 2 through 6].

28 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department.
29 Of the money that is deposited in the account that is not used for administrative expenses:

30 (a) 75% must be allocated for distribution to local governments to be used for job creation efforts; and

1 (b) 25% must be distributed to certified regional development corporations AND ECONOMIC DEVELOPMENT
 2 ORGANIZATIONS THAT ARE LOCATED IN A COUNTY THAT IS NOT PART OF A CERTIFIED REGIONAL DEVELOPMENT
 3 CORPORATION.

4

5 **Section 7.** Section 17-7-502, MCA, is amended to read:

6 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 7 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 8 the need for a biennial legislative appropriation or budget amendment.

9 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 10 of the following provisions:

11 (a) The law containing the statutory authority must be listed in subsection (3).

12 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 13 appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
 15 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
 16 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222;
 17 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;
 18 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;
 19 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
 20 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313;
 21 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; [section 6]; 90-3-1003; 90-6-710; and
 22 90-9-306.

23 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 24 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 25 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 26 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 27 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 28 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 29 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
 30 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's

1 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
2 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
3 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
4 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
5 the inclusion of 2-15-151 terminates June 30, 2005.)"

6
7 NEW SECTION. **Section 8. Fund transfer.** On July 1, 2005, the amount of \$20 million is transferred
8 from the coal severance tax permanent fund to the big sky economic development fund established in 17-5-703.

9
10 NEW SECTION. **Section 9. Codification instruction.** [Sections 2 through 6] are intended to be
11 codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 2
12 through 6].

13
14 NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 2005.

15 - END -